

CONTRACT #3
RFS # 401.05-002
FA # 05-16200

Transportation
Civil Rights/Small Business
Development Program

VENDOR:
Business Resource Group, LLC

Supplemental Documentation Required for
Fiscal Review Committee

*Contact Name:	David W. Neese	*Contact Phone:	615-253-1077
*Contract Number:	FA-05-16200-00	* RFS Number	401.05-002
*Original Contract Begin Date:	Nov. 10, 2004	* Current End Date:	Nov. 9, 2008
Current Request Amendment Number: (if applicable)	FA-05-16200-03		
Proposed Amendment Effective Date: (if applicable)	Nov. 1, 2008		
* Department Submitting:	Tennessee Department of Transportation		
* Division:	Civil Rights Office		
* Date Submitted:	September 29, 2008		
* Submitted Within Sixty (60) days:	no		
<i>If not, explain:</i>	Delay receiving verification of funds		
* Contract Vendor Name:	Business Resource Group		
* Current Maximum Liability:	2,600,000		
* Current Contract Allocation by Fiscal Year: (as shown on Most Current Contract Summary Sheet)			
FY: 2005	FY: 2006	FY: 2007	FY: 2008
\$650,000	\$650,000	\$650,000	\$650,000
FY: 2009			
\$			
* Current Total Expenditures by Fiscal Year of Contract: (attach backup documentation from STARS or FDAS report)			
FY: 2005	FY: 2006	FY: 2007	FY: 2008
\$186,474.61	\$686,876.70	\$633,856.84	\$730,864.49
FY: 2009			
\$142,614.34			
IF Contract Allocation has been greater than Contract Expenditures, please give the reasons and explain where surplus funds were spent:		Contractor came in under budget annually and any funding left over was rolled over until the next contract year.	
IF surplus funds have been carried forward, please give the reasons and provide the authority for the carry forward provision:		Funds were allocated for this contract, so any unused funds were carried over to use if needed.	
IF Contract Expenditures exceeded Contract Allocation, please give the reasons and explain how funding was acquired to pay the overage:			
*Contract Funding Source/Amount:	State:	\$466,200	Federal:
			\$183,800
Interdepartmental:	N/A	Other:	N/A
If "other" please define:		N/A	

Supplemental Documentation Required for
Fiscal Review Committee

Dates of All Previous Amendments or Revisions: <i>(if applicable)</i>	Brief Description of Actions in Previous Amendments or Revisions: <i>(if applicable)</i>
11/10/06 – 11/9/07	One year extension for Supportive Services
11/10/07 – 11/9/08	One year extension for Supportive Services
Method Of Original Award: (if applicable)	Low bidder on RFP

REQUEST: NON-COMPETITIVE AMENDMENT

APPROVED

Commissioner of Finance & Administration

Date:

EACH REQUEST ITEM BELOW MUST BE DETAILED OR ADDRESSED AS REQUIRED.

1) RFS #	401.05-002		
2) State Agency Name :	Department of Transportation		
EXISTING CONTRACT INFORMATION			
3) Service Caption :	Supportive Services of Disadvantaged Business Enterprises (DBE's)		
4) Contractor :	Business Resource Group, LLC		
5) Contract #	FA-05-16200-00		
6) Contract Start Date :	November 10, 2004		
7) <u>Current</u> Contract End Date IF <u>all</u> Options to Extend the Contract are Exercised :	November 9, 2009		
8) <u>Current</u> Total Maximum Cost IF <u>all</u> Options to Extend the Contract are Exercised :	\$3,250,000.00		
PROPOSED AMENDMENT INFORMATION			
9) <u>Proposed</u> Amendment #	3		
10) <u>Proposed</u> Amendment Effective Date : (attached explanation required if date is < 60 days after F&A receipt)	November 10, 2008		
11) <u>Proposed</u> Contract End Date IF <u>all</u> Options to Extend the Contract are Exercised :	November 9, 2009		
12) <u>Proposed</u> Total Maximum Cost IF <u>all</u> Options to Extend the Contract are Exercised :	\$3,250,000.00		
13) Approval Criteria : (select one)	<input checked="checked" type="checkbox"/> use of Non-Competitive Negotiation is in the best interest of the state <input type="checkbox"/> only one uniquely qualified service provider able to provide the service		
14) Description of the Proposed Amendment Effects & Any Additional Service :			
Amendment will add fifth and final year and monies for that year . There are no new, additional services. Contractor will continue to provide the services as bid. These services are to provide educational support programs for DBE's.			
15) Explanation of Need for the Proposed Amendment :			
To extend the contract for fifth year of a five-year contract.			

16) Name & Address of Contractor's Current Principal Owner(s) : (not required if proposed contractor is a state education institution)		
Business Resource Group, LLC, P.O. Box 383301, Germantown, TN 38183		
17) Documentation of Office for Information Resources Endorsement : (required <u>only</u> if the subject service involves information technology; N/A to THDA requests)		
select one:	<input checked="checked" type="checkbox"/> Documentation Not Applicable to this Request	<input type="checkbox"/> Documentation Attached to this Request
18) Documentation of Department of Personnel Endorsement : (required <u>only</u> if the subject service involves training for state employees)		
select one:	<input checked="checked" type="checkbox"/> Documentation Not Applicable to this Request	<input type="checkbox"/> Documentation Attached to this Request
19) Documentation of State Architect Endorsement : (required <u>only</u> if the subject service involves construction or real property related services)		
select one:	<input checked="checked" type="checkbox"/> Documentation Not Applicable to this Request	<input type="checkbox"/> Documentation Attached to this Request
20) Description of Procuring Agency Efforts to Identify Reasonable, Competitive, Procurement Alternatives :		
This was procured as an RFP with an initial term of two years and with three options to renew.		
21) Justification for the Proposed Non-Competitive Amendment :		
The rates originally bid are still in effect. We are extremely pleased with this Contractor's work and are extending this contract through this amendment for the final year as allowed in the original contract.		
REQUESTING AGENCY HEAD SIGNATURE & DATE : (must be signed & dated by the <u>ACTUAL</u> procuring agency head as detailed on the Signature Certification on file with OCR— signature by an authorized signatory will be accepted only in documented exigent circumstances)		
Agency Head Signature		Date



**STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION**

SUITE 700, JAMES K. POLK BUILDING
NASHVILLE, TENNESSEE 37243-0349
(615) 741-2848

GERALD F. NICELY
COMMISSIONER

PHIL BREDESEN
GOVERNOR

September 29, 2008

**Mr. James W. White, Executive Director
Tennessee General Assembly
Fiscal Review Committee
8th Floor, Rachel Jackson Building
Nashville, TN 37243**

**SUBJECT: Amendment Three
Business Resource Group, LLC
Contract FA -05-16200**

RECEIVED

OCT 07 2008

FISCAL REVIEW

Dear Mr. White:

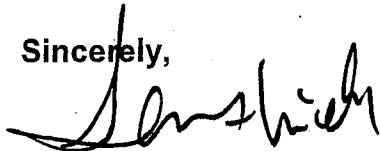
The referenced contractor has been providing supportive services for Disadvantaged Business Enterprises (DBEs) certified through TDOT's Small Business Development Office for four years. This packet contains the following materials as required by your office:

- 1. Amendment Three which will extend the contract for the fifth and final year and will add additional funding for November 10, 2008 through November 9, 2009, in the amount of \$650,000.00 and the Contract Summary Sheet associated with this amendment.**
- 2. Previous Amendments Two and One which, likewise, extended the contract for an additional year and added funding for said year and the Contract Summary Sheets associated with those two amendments.**
- 3. The original contract and its Contract Summary Sheet.**
- 4. Supporting documents:**
 - a. Supplemental Documentation Required for Fiscal Review Committee**
 - b. STARS printout showing expenditures**

The original two-year term of the contract was November 10, 2004 through November 9, 2006. The term extension allowed for three additional years, for a total of five years. These extensions were anticipated in the original contract. This amendment will add costs that, while anticipated, were not accounted for in the original two year term of the contract. We believe that additional funds are justified without another Request for Proposal process.

Your consideration of the one year extension is appreciated. Please advise if you have any questions or comments.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Nicely", written over the word "Sincerely,".

Gerald F. Nicely
Commissioner

C O N T R A C T S U M M A R Y S H E E T

RFS #	Contract #
401 . 05 — 002	FA-05-16200-03
State Agency	State Agency Division
Transportation	Civil Rights/Small Business Development Progr.
Contractor Name	Contractor ID # (FEIN or SSN)
Business Resource Group, LLC	<input type="checkbox"/> C- or <input checked="" type="checkbox"/> V- V- 62-1859611-00

Service Description			
Supportive Services for the Disadvantaged Business Enterprises (DBE)			
Contract Begin Date	Contract End Date	SUBRECIPIENT or VENDOR?	CFDA #
10-Nov-04	9-Nov-09	Vendor	20.205

Mark Each TRUE Statement					
<input checked="" type="checkbox"/> Contractor is on STARS			<input type="checkbox"/> Contractor's Form W-9 is on file in Accounts		
Allotment Code	Cost Center	Object Code	Fund	Funding Grant Code	Funding Subgrant Code
480	88	134	21	NA	NA
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2005	466,200	183,800			650,000
2006	466,200	183,800			650,000
2007	(183,800)	183,800			0.00
2007	466,200	183,800			650,000
2008	466,200	183,800			650,000
2009	466,200	183,800			650,000
TOTAL:	2,147,200	1,102,800			3,250,000

— COMPLETE FOR AMENDMENTS ONLY —			State Agency Fiscal Contact & Telephone #
FY	Base Contract & Prior Amendments	THIS Amendment ONLY	Audra Colvin 741-2498
2006	1,300,000		State Agency Budget Officer Approval
2007	650,000		Neal Hand
2008	650,000		
2009		650,000	
			Funding Certification (certification, required by T.C.A., § 9-4-5113, that there is a balance in the appropriation from which the obligated expenditure is required to be paid that is not otherwise encumbered to pay obligations previously incurred)
TOTAL:	2,600,000	650,000	
End Date:	11/9/2008	11/9/2009	

Contractor Ownership (complete for ALL base contracts— N/A to amendments or delegated authorities)					
<input checked="" type="checkbox"/> African American	<input type="checkbox"/> Person w/ Disability	<input type="checkbox"/> Hispanic	<input type="checkbox"/> Small Business	<input type="checkbox"/> Government	
<input type="checkbox"/> Asian	<input checked="" type="checkbox"/> Female	<input type="checkbox"/> Native American	<input type="checkbox"/> NOT Minority/Disadvantaged	<input type="checkbox"/> Other	

Contractor Selection Method (complete for ALL base contracts— N/A to amendments or delegated authorities)			
<input checked="" type="checkbox"/> RFP	<input type="checkbox"/> Competitive Negotiation *	<input type="checkbox"/> Alternative Competitive Method *	
<input type="checkbox"/> Non-Competitive Negotiation *	<input type="checkbox"/> Negotiation w/ Government (ID, GG, GU)	<input type="checkbox"/> Other *	

* Procurement Process Summary (complete for selection by Non-Competitive Negotiation, Competitive Negotiation, OR Alternative Method)

**AMENDMENT 3
TO FA-05-16200-**

This Contract Amendment is made and entered by and between the State of Tennessee, Department of Transportation, hereinafter referred to as the "State" and Business Resource Group, LLC, hereinafter referred to as the "Contractor." It is mutually understood and agreed by and between said, undersigned contracting parties that the subject Contract is hereby amended as follows:

1. The text of Contract Section B.1. is deleted in its entirety and replaced with the following:

B.1. Contract Term. This Contract shall be effective for the period commencing on November 10, 2004 and ending on November 9, 2009. The state shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

2. The text of Contract Section B.2. is deleted in its entirety.

3. The text of Contract Section C.1. is deleted in its entirety and replaced with the following:

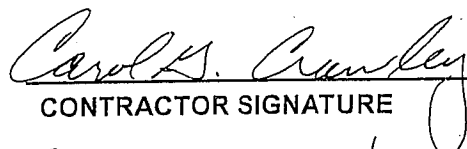
C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Three Million, Two Hundred and Fifty Thousand Dollars and no cents (\$3,250,000.00). The Service Rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The Service Rates include, but are not limited to, applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the Service Rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

The revisions set forth herein shall be effective November 1, 2008. All other terms and conditions not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF:

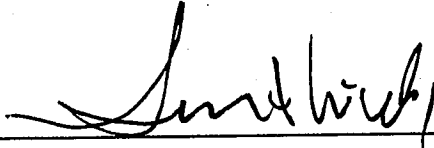
BUSINESS RESOURCE GROUP, LLC:


CONTRACTOR SIGNATURE

9/25/08
DATE

 Managing Partner
PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

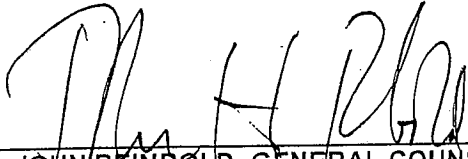
TENNESSEE DEPARTMENT OF TRANSPORTATION:



OCT 01 2008

GERALD F. NICELY, COMMISSIONER

DATE



JOHN REINBOLD, GENERAL COUNSEL
APPROVED AS TO FORM AND LEGALITY

9/30/08
DATE

APPROVED:

M. D. GOETZ, JR., COMMISSIONER
DEPARTMENT OF FINANCE AND ADMINISTRATION

DATE

JOHN G. MORGAN, COMPTROLLER OF THE TREASURY

DATE

KFS #		Contract #	
401.05-002		FA-05-16200-02	
State Agency		State Agency Division	
Transportation		Civil Rights/Small Business Development Program	
Contractor Name		Contractor ID # (FEIN or SSN)	
Business Resource Group, LLC		<input type="checkbox"/> C- or <input checked="" type="checkbox"/> V- V- 62-1859611-00	

Service Description			
Supportive Services for the Disadvantaged Business Enterprises (DBE)			
Contract Begin Date	Contract End Date	SUBRECIPIENT or VENDOR?	CFDA #
10-Nov-04	9-Nov-08	Vendor	20.205

Mark Each TRUE Statement					
<input checked="" type="checkbox"/> Contractor is on STARS			<input checked="" type="checkbox"/> Contractor's Form W-9 is on file in Accounts		
Allotment Code	Cost Center	Object Code	Fund	Funding Grant Code	Funding Subgrant Code
480	88	134	21	NA	NA
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2005	466,200	183,800			650,00
2006	466,200	183,800			650,00
2007	(183,800)	183,800			0.0
2007	466,200	183,800			650,00
2008	466,200	183,800			650,00
TOTAL:					1,681,800 919,000 \$2,600,00

— COMPLETE FOR AMENDMENTS ONLY —			State Agency Fiscal Contact & Telephone #	
FY	Base Contract & Prior Amendments	THIS Amendment ONLY	Dana Kendall (615) 741-2498 <i>Neal</i>	
2006	1,300,000		State Agency Budget Officer Approval	
2007	650,000			
2008		650,000		
Funding Certification (certification required by T.C.A. § 9-4-5113; that a balance in the appropriation from which the obligated expenditure is required that is not otherwise encumbered to pay obligations previously incurred)				
TOTAL	1,950,000	650,000		
End Date	11/9/2007	11/9/2008		

Contractor Ownership (complete only for base contracts with contract # prefix FA or GR)				
<input checked="" type="checkbox"/> African American	<input type="checkbox"/> Person w/ Disability	<input type="checkbox"/> Hispanic	<input type="checkbox"/> Small Business	<input type="checkbox"/> NOT minority/disadvantaged
<input type="checkbox"/> Asian	<input checked="" type="checkbox"/> Female	<input type="checkbox"/> Native American	<input type="checkbox"/> OTHER minority/disadvantaged—	
Contractor Selection Method (complete for ALL base contracts — N/A to amendments or delegated authorities)				
<input checked="" type="checkbox"/> RFP	<input type="checkbox"/> Competitive Negotiation	<input type="checkbox"/> Alternative Competitive Method		
<input type="checkbox"/> Non-Competitive Negotiation	<input type="checkbox"/> Negotiation w/ Government (e.g., ID, GG, GU)	<input type="checkbox"/> Other		

Procurement Process Summary (complete for selection by Alternative Method, Competitive Negotiation, Non-Competitive Negotiation, OR Other)
RECEIVED 2007 OCT 16 10 55

AMENDMENT 2
TO FA-05-16200-

This Contract Amendment is made and entered by and between the State of Tennessee, Tennessee Department of Transportation, hereinafter referred to as the "State" and Business Resource Group, LLC, hereinafter referred to as the "Contractor." It is mutually understood and agreed by and between said, undersigned contracting parties that the subject Contract is hereby amended as follows:

1) The text of Contract Section B.1 is deleted in its entirety and replaced with the following:

B.1. Contract Term. This Contract shall be effective for the period commencing on November 10, 2004 and ending on November 9, 2008. The state shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

2) The text of Contract Section C.1 is deleted in its entirety and replaced with the following:

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed two million, six hundred thousand dollars and 00/100 (\$2,600,000.00). The Service Rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The Service Rates include, but are not limited to, applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

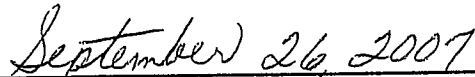
The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the Service Rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

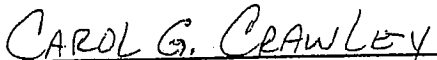
The revisions set forth herein shall be effective November 10, 2007. All other terms and conditions not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF:

BUSINESS RESOURCE GROUP, LLC:


CONTRACTOR SIGNATURE


DATE

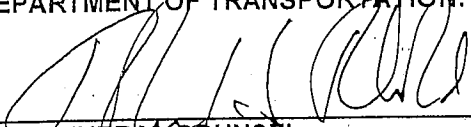

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

TENNESSEE DEPARTMENT OF TRANSPORTATION:


GERALD F. NICELY, COMMISSIONER

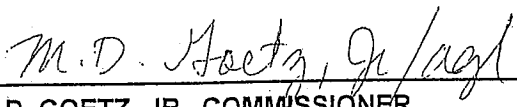
OCT 04 2007
DATE

TENNESSEE DEPARTMENT OF TRANSPORTATION:


JOHN REINBOLD, GENERAL COUNSEL
APPROVED AS TO FORM AND LEGALITY

10/2/07
DATE

APPROVED:


M. D. GOETZ, JR., COMMISSIONER
DEPARTMENT OF FINANCE AND ADMINISTRATION

10/15/07
DATE


JOHN G. MORGAN, COMPTROLLER OF THE TREASURY

10/16/07
DATE

CONTRACT SUMMARY SHEET

060706

RFS #	Contract #
401.05-002	FA-05-16200-00 01
State Agency	State Agency Division
Transportation	Civil Rights/Small Business Development Program
Contractor Name	Contractor ID # (FEIN or SSN)
Business Resource Group, LLC	<input type="checkbox"/> C- or <input checked="" type="checkbox"/> V- V- 62-1859611-00

Service Description			
Supportive Services for the Disadvantaged Business Enterprises (DBE)			
Contract Begin Date	Contract End Date	SUBRECIPIENT or VENDOR?	CFDA #
10-Nov-04	9-Nov-07	Vendor	20.205

Mark Each TRUE Statement					
<input checked="" type="checkbox"/> Contractor is on STARS			<input checked="" type="checkbox"/> Contractor's Form W-9 is on file in Accounts		
Allotment Code	Cost Center	Object Code	Fund	Funding Grant Code	Funding Subgrant Code
480	88	134	21	NA	NA
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2005	466,200	183,800	000 000 000 000		650,000
2006	466,200	183,800			650,000
2007	(183,800)	183,800	NOV 20 2006		0.00
2007	466,200	183,800			650,000
TOTAL:	1,214,800	735,200			\$1,950,000

— COMPLETE FOR AMENDMENTS ONLY —			State Agency Fiscal Contact & Telephone #
FY	Base Contract & Prior Amendments	THIS Amendment ONLY	Kenitha Reed (615) 741-2498
2006	1,300,000		State Agency Budget Officer Approval
2007		650,000	<i>Meatham</i>
			Funding Certification (certification, required by T.C.A., § 9-4-5113, that there is a balance in the appropriation from which the obligated expenditure is required to be paid that is not otherwise encumbered to pay obligations previously incurred)
TOTAL:	1,300,000	650,000	
End Date:	11/9/2006	11/9/2007	

Contractor Ownership (complete only for base contracts with contract # prefix: FA or GR)				
<input checked="" type="checkbox"/> African American	<input type="checkbox"/> Person w/ Disability	<input type="checkbox"/> Hispanic	<input type="checkbox"/> Small Business	<input type="checkbox"/> NOT minority/disad
<input type="checkbox"/> Asian	<input checked="" type="checkbox"/> Female	<input type="checkbox"/> Native American	<input type="checkbox"/> OTHER minority/disadvantaged—	

Contractor Selection Method (complete for ALL base contracts— N/A to amendments or delegated authorities)			
<input checked="" type="checkbox"/> RFP	<input type="checkbox"/> Competitive Negotiation	<input type="checkbox"/> Alternative Competitive M	
<input type="checkbox"/> Non-Competitive Negotiation	<input type="checkbox"/> Negotiation w/ Government (e.g., ID, GG, GU)	<input type="checkbox"/> Other	

Procurement Process Summary (complete for selection by Alternative Method, Competitive Negotiation, Non-Competitive Negotiation, OR Other)

AMENDMENT 1
TO CONTRACT FA-05-16200-00

This Contract, by and between the State of Tennessee, Tennessee Department of Transportation, hereinafter referred to as the State, and Business Resource Group, LLC, hereinafter referred to as the Contractor, is hereby amended as follows:

1) Delete Section B.1 in its entirety and insert the following in its place:

Contract Term. This Contract shall be effective for the period commencing on November 10, 2004 and ending on November 9, 2007. The state shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

2) Delete Section C.1 in its entirety and insert the following in its place:

Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed one million, nine hundred and fifty thousand dollars and 00/100 (\$1,950,000.00). The Service Rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The Service Rates include, but are not limited to, applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the Service Rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

The other terms and conditions of this Contract not amended hereby shall remain in full force and effect.

IN WITNESS WHEREOF:

BUSINESS RESOURCE GROUP, LLC:

Carol G. Crawley Managing Partner 10/06/06
CAROL G. CRAWLEY, MANAGING PARTNER DATE

CAROL G. CRAWLEY Managing Partner
PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY

TENNESSEE DEPARTMENT OF TRANSPORTATION:

Gerald F. Nicely
GERALD F. NICELY, COMMISSIONER

10-16-06
DATE

TENNESSEE DEPARTMENT OF TRANSPORTATION:

John Reinbold
JOHN REINBOLD, GENERAL COUNSEL
APPROVED AS TO FORM AND LEGALITY

10/16/06
DATE

APPROVED:

DEPARTMENT OF FINANCE AND ADMINISTRATION:

M. D. Goetz, Jr.
M. D. GOETZ, JR., COMMISSIONER

11/15/06
DATE

COMPTROLLER OF THE TREASURY:

John G. Morgan
JOHN G. MORGAN, COMPTROLLER OF THE TREASURY

11/17/06

CONTRACT SUMMARY SHEET

RFS Number:	401.05-002	Contract Number:	FA-05-16200-06
State Agency:	Transportation	Division:	Civil Rights, Small Business Development Office
Contractor		Contractor Identification Number	
Business Resource Group, LLC		<input checked="" type="checkbox"/> V- <input type="checkbox"/> C-	62-1859611-00
Service Description			

Supportive Services of the Disadvantaged Businesses Enterprises (DBE)

Contract Begin Date				Contract End Date		
November 10, 2004				November 9, 2006		
Allocation Code	Cost Center	Object Code	Fund	Grant	Grant Code	Subgrant Code
01.05 480	88	0184 1340	21	<input type="checkbox"/> on STARS	N/A	N/A
FY	State Funds	Federal Funds	Interdepartmental Funds	Other Funding	Total Contract Amount (including ALL amendments)	
005	466,200.00	183,800.00			650,000.00	
006	466,200.00	183,800.00			650,000.00	
Total:	932,400.00	367,600.00			1,300,000.00	

FDA #		Check the box ONLY if the answer is YES:	
State Fiscal Contact		Is the Contractor a SUBRECIPIENT? (per OMB A-133)	
Name:	Jennifer Herstek	Is the Contractor a VENDOR? (per OMB A-133)	X
Address:	8 th Floor, J.K. Polk Bldg., Nashville, TN	Is the Fiscal Year Funding STRICTLY LIMITED?	
Phone:	741-2498	Is the Contractor on STARS?	X
Procuring Agency Budget Officer Approval Signature		Is the Contractor's FORM W-9 ATTACHED?	
<i>Neal Hammy</i>		Is the Contractors Form W-9 Filed with Accounts?	X

COMPLETE FOR ALL AMENDMENTS (only)			Funding Certification	
	Base Contract & Prior Amendments	This Amendment ONLY	Pursuant to T.C.A., Section 9-6-113, I, M. D. Goetz, Jr., Commissioner of Finance and Administration, do hereby certify that there is a balance in the appropriation from which this obligation is required to be paid that is not otherwise encumbered to pay obligations previously incurred.	
END DATE →				
Total:				

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CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF TRANSPORTATION
AND
BUSINESS RESOURCE GROUP, LLC

This Contract, by and between the State of Tennessee, Department of Transportation, hereinafter referred to as the "State" and Business Resource Group, LLC, hereinafter referred to as the "Contractor," is for the provision of Supportive Services, as further defined in the "SCOPE OF SERVICES."

The Contractor is a Limited Liability Company. The Contractor's address is:

P. O. Box 383301
Germantown, TN 38183

The Contractor's place of incorporation or organization is Tennessee.

A. SCOPE OF SERVICES:

A.1. Background Information

Providing educational support programs for Small & Disadvantaged Businesses Enterprises (DBE's) is a vital component of the State's Small Business Development Program (SBDP). The activities planned and implemented by the supportive services contractor is critical to the ongoing growth and development of those DBE's and small businesses needing and seeking assistance. Small business shall be defined to include certified DBE's as defined by 49 Code of Federal Regulations 26 and any business that otherwise qualifies as a DBE with the exception that the owner is not disadvantaged.

The supportive services contractor shall provide specific information, communication, and materials regarding contracting and subcontracting opportunities to assist DBEs participating in the supportive services program. These supportive services shall be provided only to those small businesses meeting requirements and certified DBEs determined to be eligible for participation in the federal-aid highway program in accordance with 49 CFR, Part 26 and who have a work specialty in the highway construction and transportation industry. The Contractor shall provide a wide range of assistance to small and disadvantaged businesses that are pre-qualified to perform work for prime contractors.

According to the Code of Federal Regulations, 23 CFR §230.202(b) *Supportive Services* means "those services and activities provided in connection with minority business enterprise programs which are designed to increase the total number of minority businesses active in the highway program and contribute to the growth and eventual self-sufficiency of individual minority businesses so that such businesses may achieve proficiency to compete, on an equal basis, for contracts and subcontracts".

DBE is defined as a for-profit small business concern that meets the following criteria:

- at least fifty-one percent (51%) is owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which fifty-one percent (51%) of the stock is owned by one or more such individuals; and

- management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it
- owners must not possess a personal net worth of more than seven hundred fifty thousand. (\$750,000).
- a small business is as defined by Small Business Administration (SBA) standards, as found in 13 CFR, Part 121

Overall administration and coordination of the program will be provided by the Contractor. The Contractor will be responsible for tracking the development of DBE and small business participants for growth, and the development of new DBEs for the program. Additionally, the Contractor will maintain statistical data on certified DBEs obtaining State contracts to assess project progress.

According to the State's SBDP there are currently two hundred twenty-two (222) certified DBEs doing business in Tennessee. Fifty-nine (59) are out-of-state, and one hundred sixty three (163) firms are in Tennessee. One hundred nineteen (119) firms have a work specialty in the highway construction and transportation industry. The exact number of small businesses is unknown. A business is certified as a DBE for a period of three (3) years with annual self-certification for continuing eligibility.

The Contractor shall assemble a team skilled in the various disciplines, including but not limited to, accounting, office management, technical expertise, business development, marketing and special events planning.

A.2. Contract Administrator Responsibilities

The Contractor shall report directly to the Small Business Development Office (SBDO) Director or her/his designee(s). The Contractor will be responsible for communicating to the SBDO Director the plan of action, status of the program and any other matters of significance to the program or contract. Dates, times and locations of meetings, training and/or seminars will be mutually agreeable to both parties. The State will have final approval on all matters which relate to finances. During the term of the Contract, whenever Contractor is required to provide meals or novelty items, Contractor shall notify State of the cost of the item/meal and obtain prior written approval by the State. Reimbursement will be made only for actual cost of the item/meal. Under the direction of the SBDO, the Contractor will be asked to perform the tasks described here to include but not be limited to the following:

- A.2.1. The Contractor shall perform individual evaluations of each in-state DBE firm within the first year of the contract. The Contractor shall verify the work areas identified on the DBE's certification listing. The Contractor shall gather equipment lists and current contracts prior to each of these meetings and shall prioritize the meetings as follows:
 1. DBEs currently active in Tennessee who have bid on State construction contracts.
 2. New DBEs in Tennessee who are prepared to bid on State construction contracts.
 3. New DBEs who need direction to resources outside state government (federal and city work). After each meeting, the Contractor shall prepare a written report for the State. This report should include any

recommendations for improvements. The Contractor shall then hold individual follow-up meetings with each DBE firm evaluated at the SBDO.

A.2.2. The Contractor shall maintain a toll-free hotline that is available Monday-Friday, 8:00 a.m. to 4:30 p.m. (Central Standard Time) with voice mail capability. The phone will be manned a minimum of 7.5 (seven and one-half) hours per day to receive calls from DBEs and prime contractors.

A.2.3. The Contractor shall organize a quarterly breakfast meeting in each of the State's four (4) regions for DBEs to meet and discuss concerns in an informal manner. The Contractor shall send out invitations and track the response rate of reply. The Contractor shall attend each of these 16 breakfast meetings. The Contractor can make the breakfast a "pay-as-you-go." These breakfasts shall allow newer DBEs to familiarize themselves and discuss issues with veteran DBEs. Topics of discussion at these breakfasts might include:

- Information on business sources
- Joint venturing
- Equipment rentals between firms
- Finding supply sources from DBEs
- Promoting solidarity among DBEs
- Explaining state policies
- Sharing stories of failure and success

A.3. Marketing Development Responsibilities

The Contractor will work with DBEs on how to market their services to government agencies and prime contractors. The Contractor will implement and promote a strong outreach program designed to attract and assist eligible non-certified minority and women-owned firms doing highway, road and bridge construction work in becoming certified DBEs with the State. The Contractor shall submit a written progress report each month to the Director of the SBDO. The report shall include:

- Staff allocation of time, giving dates and hours spent
- Sub-contractor allocation of time, giving dates and hours spent
- Marketing efforts including any trade shows or industry meetings attended or planned
- Contacts with State personnel
- Contacts with prime contractors
- Cumulative expenditures to date with detail explanation
- Accomplishments to date
- Problems encountered and resolutions implemented
- Additional items impacting work plan

A.3.1. The Contractor shall attend regional and national Civil Rights meetings of the Federal Highway Administration (FHWA) and the American Association of State Highway and Transportation Officials (AASHTO). Registration of two persons at each of these meetings will be an eligible expense of the contract agreement.

A.3.2. The Contractor shall maintain and update the State's 8x10 exhibit booth. This will include, but is not limited to, picking up the booth from the James K. Polk Building, manning, delivering it to the activity site and returning it to SBDO.

A.3.3. The Contractor shall attend a monthly staff meeting (at a minimum) at the Nashville Headquarters with the SBDO Director. The State and the Contractor will mutually agree upon the date and time.

- A.3.4. The Contractor shall contact at least seventy (70) certified DBE contacts by phone or in person every ninety (90) days.
- A.3.5. The Contractor shall publish at least one (1) article quarterly concerning the State's Small Business Development Program in the Tennessee Road Builders Association (TRBA) magazine or major metropolitan newspaper. This effort is to be coordinated with the State's Public Information Officer.
- A.3.6. The Contractor shall publish bi-monthly recruiting advertisements in local newspapers.
- A.3.7. The Contractor shall assist the State in coordinating annual "TDOT Job Shadow Day" in the month of February in each of the four (4) regions.

This activity is held on or around the traditional "Groundhog Day" in February of each year. The four regions across the state adopt a high school to participate. The Contractor shall assist the region representative in planning/coordinating the activity. Groundhog Day shall introduce area students to various divisions of transportation, such as Construction, Design, Environmental, Geotechnical, Help, Information Technology, Maintenance, Materials and Test, Right-of-Way Survey and Traffic. Organizers will emphasize the importance of English, math, science and computer skills. Students are given hands on experience for each phase of designing, constructing and maintaining a highway. Lunch and departmental novelty items shall be provided by the Contractor with approval from the State. NOTE: At any time Contractor is required to provide meals or novelty items, Contractor shall notify State of cost of item/meal and obtain prior written approval by the State. Reimbursement will be made only for actual cost of item/meal. At the end of the day young people have been introduced to a workday environment within the regional offices. The SBDO will be available to provide direction to the Contractor on participating in this activity.

- A.3.8. The Contractor shall secure speaking engagements and other public appearances at trade conferences in the State to promote the supportive services effort as directed by the State.
- A.3.9. The Contractor shall procure novelty items as promotional giveaways (as needed) with prior approval from the State. Price range of items will be directed by the SBDO.
- A.3.10. The Contractor shall make DBEs/small businesses aware of the following information the State provides via the internet, hardcopy or both:
- Prime Contractor listing
 - Pre-qualification applications
 - Notice to contractors in construction, maintenance/mowing and engineering
 - Other information as required
- A.3.11. The Contractor shall accompany a member of the certification staff to on-site in-state visits as approved by the Director of the SBDP. The certification staff is a component of the SBDP responsible for processing paperwork and coordinating the specialty work areas which DBEs are approved to participate in at TDOT Lettings. The certification staff works with current DBEs regarding matters of renewal of eligibility and changes involved in work areas, as well as potential applicants trying to become certified across the state, through on-site visits.
- A.3.12. The Contractor shall provide the SBDO Director, in writing, a resume of all suggested instructors and consultants including qualifications for training courses.

A.4. Construction Planning Responsibilities

The Contractor shall provide specific information, communication, and materials pertaining to contracting and subcontracting opportunities available to the DBEs/small businesses.

- A.4.1. The Contractor shall work jointly with other entities to finance and conduct basic contractor licensing classes in each of the State's four regions (Jackson, Nashville, Chattanooga and Knoxville). Notebooks shall be prepared for participants. The Contractor will work closely with the State to prepare a "how-to" notebook for every certified in-state DBEs/small business. The Contractor shall deliver the notebooks at their on-site visits. Information to be included in the notebooks include, but are not limited to:

- Find bidding opportunities with the State and other entities
- Complete prime qualification applications – both consultant and construction
- Find Internet information useful to those working with the State
- Form joint ventures
- Find equipment rental sources
- Find State contact sources

- A.4.2. The Contractor shall provide one-on-one consultation with firms on cost estimating and bidding, project scheduling, construction management and contract review. The Contractor will be expected to assist the Director of the SBDO and the engineer from the TDOT Construction Division with Goal Setting on state and federally funded highway projects prior to each letting. Experience in the construction industry with bidding & estimating is extremely important.

- A.4.3. The Contractor shall provide a written list of all of the State's letting dates on projects in all ninety-five (95) counties to all certified DBE firms. The State's Construction Division is responsible for preparing proposals and lettings to contract for all state highway & bridge projects. These lettings are scheduled by the State's Construction Division, approximately ten (10) times a year, generally six (6) weeks apart and posted on the State's internet web site.

The Contractor shall become familiar with highway and/or bridge construction projects across the State of Tennessee. The Contractor is responsible for knowing what projects exist and where these projects are located. This is necessary because the Contractor will be responsible for having a professional engineer (Construction Planning Administrator/Engineer) assist in the goal setting process for construction projects.

- A.4.4. The Contractor shall evaluate firms that express interest in becoming a prime contractor. Contractor shall develop a checklist of necessary benchmarks to measure readiness to become a prime contractor. Contractor shall develop individual curricula to bring the firm up to prime capabilities. Contractor shall assist the firm in becoming SBA certified. Contractor shall work with the State to ensure that DBEs bid only on contracts for which they are qualified. A staff person in the SBDO will assist the Contractor in this area.

A pre-qualification questionnaire is required by the Construction Division to bid as a prime or subcontractor. This document shall be filed with the Department prior to 12:00 noon of the day preceding the date of any letting. Ensure the DBE is aware of this form for contractual work.

- A.4.5. The Contractor shall recruit new DBE firms and work with certification staff to clarify work areas of current DBEs. Contractor will be responsible for seeking out new firms to qualify as DBEs. This will involve marketing the Supportive Services Program at various activities in the business community such as, Vendor Opportunity Days, Trade Shows, and Small Business Administration Expositions. It may also include activities such as, Minority Enterprise Development Week (MED Week) where small businesses convene

for a certain period of time to highlight and showcase what is being done with minority entrepreneurs around the city and the nation, or any other venue of which contractor may have knowledge.

A.4.6. The Contractor shall prepare and deliver the "Notice to Contractors" to all DBEs prior to every letting. The Contractor should also include estimated goal percentages by project and by county. The State's Construction Division has specific guidelines for Goal Setting. This information should be mail ready when delivered to the State on a schedule approved by SBDO.

A.4.7. The Contractor shall develop and print a quarterly (January, April, July, and October) newsletter publication. This newsletter will include, but is not to be limited to, information concerning the Supportive Services Program. The newsletter shall explain issues in the construction industry, define available classes, and describe assistance that is available to DBEs. The primary goal of this newsletter is to keep DBEs informed regarding issues in the construction industry. The Contractor is responsible for the content and layout of the newsletter. The SBDO shall review all preliminary and final proofs before printing is completed. The Contractor will deliver the final finished product to the State at a designated time in bulk, and the State will be responsible for mailing the newsletter to each certified DBE on the list. The newsletter must conform to State printing standards.

A.4.8. The Contractor shall publish a directory of the DBEs, in January of each year, to assist prime contractors, certified small businesses, local, state and federal agencies. This directory shall be arranged alphabetically, and by work specialty with both in-state and out-of-state firms. DBEs can use this directory as a tool to identify other firms for purposes of joint ventures, to locate firms within a geographical area, and local key TDOT personnel and public transportation agencies. The SBDO shall review all preliminary and final proofs before printing is completed. The Contractor will deliver the final finished product to the State at a designated time in bulk, and the State will be responsible for mailing the directory.

A.4.9. The Contractor shall serve on Tennessee Road Builders Association (TRBA) Education Committee. The Committee generally meets once a year in April to interview students at State Colleges and Universities in Tennessee in order to award scholarships. The SBDO Director will notify the Contractor of the details.

The TRBA provides its members with a number of services that help them effectively run their business. In addition, the association conducts training programs, runs a federally approved on-the-job training program, rewards members for safe work sites, and holds a mid-year meeting and convention each year. The mid-year meeting is held in state each August with nearly 400 people in attendance.

The Contractor shall provide assistance to the SBDO in participating in the Construction Career Days sponsored by the TRBA.

A.4.10. The Contractor shall visit with prime contractors. The SBDO will provide the Contractor with a list of major primes across the state by region. The Contractor shall have a working knowledge of the major prime contractors that bid on TDOT projects because the DBEs will work as subcontractors with them.

A.5. General Training Coordinator Responsibilities

The Contractor shall develop training programs which will assist minority and women contractors and construction suppliers on an individualized, as well as group basis. The services will be designed to increase the total number of minority and women businesses active in the highway construction program and contribute to the growth and eventual self-sufficiency of these businesses so that they may achieve proficiency to compete on an equal basis for prime contracts and sub-contracts. The Contractor shall work with Historically Black Colleges and Universities (HBCUs) and other state colleges and

universities to use their facilities for courses. These institutions can be utilized when conducting training seminars, hosting meetings and finding qualified instructors to teach classes.

A.5.1. Accounting and Business Management Planning

The Contractor shall assist firms concerning general management, accounting and marketing, and on understanding the importance of establishing a good accounting and record keeping system. The Contractor shall provide assistance and instruction in processing and submitting certified payrolls, accounts receivable and all other cash flow management techniques.

A.5.1.1. Workshop Training

In addition to one-on-one training, workshops shall be scheduled and rotated throughout the State in each of its four regions based on need during the contract year. The Contractor shall determine the need for classes during the monthly staff meetings. The Contractor shall notify all DBEs about class availability in writing and shall make follow-up phone calls to increase attendance at any given class. The Contractor shall develop a proposed training schedule and deliver it to the State.

The Contractor shall determine when each workshop will be taught, and the location for that workshop. In addition, the Contractor shall find and secure a site for each workshop, preferably at a State College or University. The length of each workshop will be dependant on the material that is covered. The Contractor shall hire qualified instructors (with prior approval from the State) to teach all workshops. Meals will be addressed on a case-by-case basis. The Contractor shall budget for some form of refreshment at all meetings. SBDO will reimburse, as part of the contract, for actual cost of refreshments, if previously approved by State.

A.5.1.2. The Contractor shall be responsible for teaching courses each year of the contract. The list of courses to be taught may include but not be limited to the following:

A.5.1.2.1. Business Management and Planning Module—This workshop will offer practical "how-to" suggestions on organizing the business management function, writing a business plan, and keeping financial and marketing efforts on track.

Business Plan Development

- Why should you have one?
- Executive Summary
- Company overview
- Market Insights
- Marketing Strategy
- Operational Strategy
- Financial Projections

Financial Planning and Budgeting

- What is a Budget? Other Considerations
- The Budget Process
- Using the Budget to Get More
- Guidelines to an Effective Budget
- How to Cut cost
- How to Project Sales

Human Resources

- Retirement and Benefit Planning
- EEOC Employment Laws

A.5.1.2.2 Accounting & Financial Management Module-This workshop will teach the business owner how to read and interpret the income statement, including such components as gross revenue, net revenue, direct and indirect expenses, net profit before taxes, gross profit, net profit after taxes. It will examine the primary benchmarks of performance: multiplier, utilization rate, direct expense ratios and overhead. In addition, the workshop should examine the balance sheet components of assets (current, fixed and other), liabilities (current and long-term), stockholders equity and important benchmarks such as: current ratio, quick ratio, receivables turnover, aging receivable, and debt to equity ratio need to be explored. Workshops shall cover the following topics:

Accounting System Setup

Understanding & Using the Financial System Quick Books Pro

- Financial Statements
- Income Statements
- Balance Sheets
- Statement of Cash Flow
- Accrual vs. Cash basis

Financial Statement Analysis

- Analytical Review
- Ratio Analysis
- Industry Standards / Comparison

Using Annual Reports

- Management's Discussion and Analysis
- Generally Accepted Accounting Principles (GAAP) Footnotes
- Audit Reports

Banking, Borrowing & Bonding

- TDOT Loan / Bonding Prep Program

A.5.1.2.3. Pricing and Bidding Module-- This workshop will break down the job cost accounting and construction cost process into an easy, straightforward and logical manner. The workshop will demonstrate how to price work based on a firm's actual cost structure. Instructors shall show a step-by-step illustrated procedure on how to obtain the most accurate costs for a firm, including reviewing the strategic balance between cost and time and how they affect profit.

Job Cost Accounting—The Estimating and Pricing Model

- General and Administrative Cost
- Direct Cost (material, labor, equipment, and other)
- Indirect Cost
- Labor Burden and Fringes
- Overhead
- Fee / Profit

A.5.1.2.4. Bidding & Contracting Administration—This workshop should prepare for the complexities of construction contracting.

The Meaning of Contract Documents

- General Conditions
- Type of Contracts
- Estimating & Bidding

- The Estimating System
- Work Breakdown Structure (WBS)
- Estimating Cost to Complete
- Profit Analysis
- Project Management
- Documentation
- Cases in Construction Law
- Change Orders
- Claims
- Contract Closeout

A.5.2. Construction Management Development Program or "CMDP"

Contractor shall develop a program of instruction to teach groups of individuals who are owners of certified small businesses to enhance, improve, or develop skills needed to successfully perform construction projects. This program shall consist of classroom instruction and on-the-job instruction. The CMDP is a requirement to participate in the TDOT Bond Guarantee Program. The CMDP is a critical component of the Bond Guarantee Program. The Bond Guarantee Program is a program in which the State will act as a secondary surety for select certified small businesses and DBEs.

A.6. General State Responsibilities

The State shall be responsible for payment of all mailings required.
 The State shall advise Contractor when to make specific presentations.
 The State shall provide a current listing of all certified DBEs and an organizational chart at the SBDO.

B. CONTRACT TERM:

B.1. Contract Term. This Contract shall be effective for the period commencing on November 10, 2004 and ending on November 9, 2006. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

B.2. Term Extension. The State reserves the right to extend this Contract for an additional period or periods of time representing increments of no more than one year and a total contract term of no more than five (5) years, provided that the State notifies the Contractor in writing of its intention to do so at least Forty five (45) days prior to the contract expiration date. An extension of the term of this Contract will be effected through an amendment to the Contract. If the extension of the Contract necessitates additional funding beyond that which was included in the original Contract, the increase in the State's maximum liability will also be effected through an amendment to the Contract and shall be based upon rates provided for in the original contract.

C. PAYMENT TERMS AND CONDITIONS:

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed one million, three hundred thousand dollars (\$1,300,000.00). The Service Rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The Service Rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the Service Rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

- C.2. Compensation Firm. The Service Rates and the Maximum Liability of the State under this Contract are firm for the duration of the Contract and are not subject to escalation for any reason unless amended.
- C.3. Payment Methodology. The Contractor shall be compensated based on the Service Rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in Section C.1. The Contractor's compensation shall be contingent upon the satisfactory completion of units of service or project milestones defined in Section A. The Contractor shall be compensated based upon the following Service Rates:

<u>SERVICE</u>	<u>PAYMENT RATE PER HOUR</u>
Contract Administrator	\$65.00
Clerical	\$15.00
Marketing Development Administrator	\$65.00
Construction Planning Administrator/ Engineer	\$75.00
Training Coordinator	\$65.00
Accounting and Business Management Planner/Instructor(s)	\$50.00
Construction Management Development Program Instructor(s)	\$50.00

The Contractor shall submit monthly invoices, in form and substance acceptable to the State with all of the necessary supporting documentation, prior to any payment. Such invoices shall be submitted for completed units of service or project milestones for the amount stipulated.

- C.4. Travel Compensation. Compensation to the Contractor for travel, meals, or lodging shall be subject to amounts and limitations specified in the "State Comprehensive Travel Regulations," as they are amended from time to time.
- C.5. Payment of Invoice. The payment of the invoice by the State shall not prejudice the State's right to object to or question any invoice or matter in relation thereto. Such payment by the State shall neither be construed as acceptance of any part of the work or service provided nor as an approval of any of the amounts invoiced therein.
- C.6. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the State,

on the basis of audits conducted in accordance with the terms of this contract, not to constitute proper remuneration for compensable services.

- C.7. Deductions. The State reserves the right to deduct from amounts which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee any amounts which are or shall become due and payable to the State of Tennessee by the Contractor.
- C.8. Automatic Deposits. The Contractor shall complete and sign an "Authorization Agreement for Automatic Deposit (ACH Credits) Form." This form shall be provided to the Contractor by the State. Once this form has been completed and submitted to the State by the Contractor all payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee shall be made by Automated Clearing House (ACH). The Contractor shall not invoice the State for services until the Contractor has completed this form and submitted it to the State.

D. STANDARD TERMS AND CONDITIONS:

- D.1. Required Approvals. The State is not bound by this Contract until it is approved by the appropriate State officials in accordance with applicable Tennessee State laws and regulations.
- D.2. Modification and Amendment. This Contract may be modified only by a written amendment executed by all parties hereto and approved by the appropriate Tennessee State officials in accordance with applicable Tennessee State laws and regulations.
- D.3. Termination for Convenience. The State may terminate this Contract without cause for any reason. Said termination shall not be deemed a Breach of Contract by the State. The State shall give the Contractor at least sixty days (60) days written notice before the effective termination date. The Contractor shall be entitled to receive compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any service which has not been rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.4. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor violates any terms of this Contract, the State shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.
- D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, they shall contain, at a minimum, sections of this Contract pertaining to "Conflicts of Interest" and "Nondiscrimination" (sections D.6. and D.7.). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.
- D.6. Conflicts of Interest. The Contractor warrants that no part of the total Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee,

subcontractor, or consultant to the Contractor in connection with any work contemplated or performed relative to this Contract.

- D.7. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.8. Records. The Contractor shall maintain documentation for all charges against the State under this Contract. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this contract, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.9. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.10. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.11. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.
- D.12. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

The Contractor, being an independent contractor and not an employee of the State, agrees to carry adequate public liability and other appropriate forms of insurance, including adequate public liability and other appropriate forms of insurance on the Contractor's employees, and to pay all applicable taxes incident to this Contract.

- D.13. State Liability. The State shall have no liability except as specifically provided in this Contract.
- D.14. Force Majeure. The obligations of the parties to this contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, acts of God, riots, wars, strikes, epidemics or any other similar cause.

- D.15. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.
- D.16. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Contract. The Contractor acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under *Tennessee Code Annotated*, Sections 9-8-101 through 9-8-407.
- D.17. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.
- D.18. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.
- D.19. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

E. SPECIAL TERMS AND CONDITIONS:

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control.
- E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by facsimile transmission, by overnight courier service, or by first class mail, postage prepaid, addressed to the respective party at the appropriate facsimile number or address as set forth below or to such other party, facsimile number, or address as may be hereafter specified by written notice.

The State:

Nathan Berretta, Executive Director
Civil Rights Office
Tennessee Department of Transportation
505 Deaderick Street
Suite 1800, James K. Polk Building
Nashville, Tennessee 37243
Phone: (615) 253-1063
Facsimile: (615) 741-3169

The Contractor:

Carol Crawley
Business Resource Group, LLC
P.O. Box 383301
Germantown, TN 38183
Phone: (901) 301-6265 - Facsimile: (901) 309-5797

All instructions, notices, consents, demands, or other communications shall be considered effectively given as of the day of delivery; as of the date specified for overnight courier service delivery; as of three (3) business days after the date of mailing; or on the day the facsimile transmission is received mechanically by the telefax machine at the receiving location and receipt is verbally confirmed by the sender if prior to 4:30 p.m. CST. Any communication by facsimile transmission shall also be sent by United States mail on the same date of the facsimile transmission.

- E.3. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate the Contract upon written notice to the Contractor. Said termination shall not be deemed a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- E.4. Partial Takeover. The State may, at its convenience and without cause, exercise a partial takeover of any service which the Contractor is obligated to perform under this Contract, including but not limited to any service which is the subject of a subcontract between Contractor and a third party, although the Contractor is not in Breach (hereinafter referred to as "Partial Takeover"). Said Partial Takeover shall not be deemed a Breach of Contract by the State. Contractor shall be given at least 30 days prior written notice of said Partial Takeover with said notice to specify the area(s) of service the State will assume and the date of said assumption. Any Partial Takeover by the State shall not alter in any way Contractor's other obligations under this Contract. The State may withhold from amounts due the Contractor the amount the Contractor would have been paid to deliver the service as determined by the State. The amounts shall be withheld effective as of the date the State assumes the service. Upon Partial Takeover, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- E.5. State Ownership of Work Products. The State shall have all ownership right, title, and interest, including ownership of copyright, in all work products created, designed, developed, derived, documented, installed, or delivered to the State under this Contract. The State shall have royalty-free and unlimited rights to use, disclose, reproduce, or publish, for any purpose whatsoever, all said work products. The Contractor shall furnish such information and data upon request of the State, in accordance with the Contract and applicable State law.
- E.6. Printing Authorization. The Contractor agrees that no publication coming within the jurisdiction of *Tennessee Code Annotated*, Section 12-7-101, *et. seq.*, shall be printed unless a printing authorization number has been obtained and affixed as required by *Tennessee Code Annotated*, Section 12-7-103 (d).
- E.7. Competitive Procurements. This Contract provides for reimbursement of the cost of goods, materials, supplies, equipment, or services. The Contractor shall obtain prior written approval from the State for such reimbursement. Such procurements shall be made on a competitive basis, where practical.
- E.8. State Furnished Property. The Contractor shall be responsible for the correct use, maintenance, and protection of all articles of nonexpendable, tangible, personal property furnished by the State for the Contractor's temporary use under this Contract. Upon

termination of this Contract, all property furnished shall be returned to the State in good order and condition as when received, reasonable use and wear thereof excepted. Should the property be destroyed, lost, or stolen, the Contractor shall be responsible to the State for the residual value of the property at the time of loss.

E.9. Incorporation of Additional Documents. Included in this Contract by reference are the following documents:

- a. The Contract document and its attachments
- b. All Clarifications and addenda made to the Contractor's Proposal
- c. The Request for Proposal and its associated amendments
- d. Technical Specifications provided to the Contractor
- e. The Contractor's Proposal

In the event of a discrepancy or ambiguity regarding the Contractor's duties, responsibilities, and performance under this Contract, these documents shall govern in order of precedence detailed above.

E.10. Workpapers Subject to Review. The Contractor shall make all audit, accounting, or financial analysis workpapers, notes, and other documentation available for review by the Comptroller of the Treasury or his representatives, upon request, during normal working hours either while the analysis is in progress or subsequent to the completion of this Contract.

E.11. Lobbying. The Contractor certifies, to the best of its knowledge and belief, that:

No federally appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, and entering into any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-grants, subcontracts, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients of federally appropriated funds shall certify and disclose accordingly.

E.12. Public Funding Notice. All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the Contractor relative to this Contract shall include the statement, "This project is funded under an agreement with the State of Tennessee." Any such notices by the Contractor shall be approved by the State.

E.13. Prohibited Advertising. The Contractor shall not refer to this Contract or the Contractor's relationship with the State hereunder in commercial advertising in such a manner as to state or imply that the Contractor or the Contractor's services are endorsed.

- E.14. Confidentiality of Records. Strict standards of confidentiality of records shall be maintained in accordance with the law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State shall be regarded as confidential information in accordance with the provisions of State law and ethical standards and shall not be disclosed, and all necessary steps shall be taken by the Contractor to safeguard the confidentiality of such material or information in conformance with State law and ethical standards.

The Contractor will be deemed to have satisfied its obligations under this section by exercising the same level of care to preserve the confidentiality of the State's information as the Contractor exercises to protect its own confidential information so long as such standard of care does not violate the applicable provisions of the first paragraph of this section.

The Contractor's obligations under this section do not apply to information in the public domain; entering the public domain but not from a breach by the Contractor of this Contract; previously possessed by the Contractor without written obligations to the State to protect it; acquired by the Contractor without written restrictions against disclosure from a third party which, to the Contractor's knowledge, is free to disclose the information; independently developed by the Contractor without the use of the State's information; or, disclosed by the State to others without restrictions against disclosure.

It is expressly understood and agreed the obligations set forth in this section shall survive the termination of this Contract.

- E.15. Copyrights and Patents. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims or suits which may be brought against the State for infringement of any laws regarding patents or copyrights which may arise from the Contractor's performance of this Contract. In any such action brought against the State, the Contractor shall satisfy and indemnify the State for the amount of any final judgment for infringement. The Contractor further agrees it shall be liable for the reasonable fees of attorneys for the State in the event such service is necessitated to enforce the terms of this Contract or otherwise enforce the obligations of the Contractor to the State. The State shall give the Contractor written notice of any such claim or suit and full right and opportunity to conduct the Contractor's own defense thereof.

- E.16. Public Accountability. If this Contract involves the provision of services to citizens by the Contractor on behalf of the State, the Contractor agrees to establish a system through which recipients of services may present grievances about the operation of the service program, and the Contractor agrees to display a sign stating:

"NOTICE: This Contractor is a recipient of taxpayer funding. If you observe an employee engaging in any activity which you consider to be illegal or improper, please call the State Comptroller's toll free hotline: 1-800-232-5454"

Said sign shall be displayed in a prominent place, located near the passageway(s) through which the public passes to receive State funded services.

- E.17. Environmental Tobacco Smoke. Pursuant to the provisions of the federal "Pro-Children Act of 1994" and the Tennessee "Children's Act for Clean Indoor Air of 1995," the Contractor shall prohibit smoking of tobacco products within any indoor premises in which services are provided pursuant to this Contract to individuals under the age of eighteen (18) years. The Contractor shall post "no smoking" signs in appropriate, permanent sites within such premises. This prohibition shall be applicable during all hours, not just the

hours in which children are present. Violators of the prohibition may be subject to civil penalties and fines. This prohibition shall apply to and be made part of any subcontract related to this Contract.

E.18. Date/Time Hold Harmless. As required by *Tennessee Code Annotated*, Section 12-4-118, the contractor shall hold harmless and indemnify the State of Tennessee; its officers and employees; and any agency or political subdivision of the State for any breach of contract caused directly or indirectly by the failure of computer software or any device containing a computer processor to accurately or properly recognize, calculate, display, sort or otherwise process dates or times.

E.19. Hold Harmless. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys for the State in the event such service is necessitated to enforce the terms of this Contract or otherwise enforce the obligations of the Contractor to the State.

In the event of any such suit or claim, the Contractor shall give the State immediate notice thereof and shall provide all assistance required by the State in the State's defense. The State shall give the Contractor written notice of any such claim or suit, and the Contractor shall have full right and obligation to conduct the Contractor's own defense thereof. Nothing contained herein shall be deemed to accord to the Contractor, through its attorney(s), the right to represent the State of Tennessee in any legal matter, such rights being governed by *Tennessee Code Annotated*, Section 8-6-106.

E.20. Tennessee Consolidated Retirement System. The Contractor acknowledges and understands that, subject to statutory exceptions contained in *Tennessee Code Annotated*, Section 8-36-801, *et. seq.*, the law governing the Tennessee Consolidated Retirement System, provides that if a retired member returns to State employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of "employee/employer" and not that of an independent contractor, the Contractor may be required to repay to the Tennessee Consolidated Retirement System the amount of retirement benefits the Contractor received from the Retirement System during the period of this Contract.

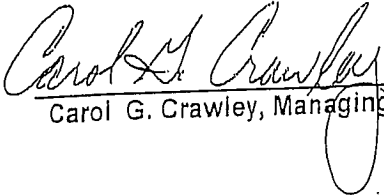
E.21. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it and its principals:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal or State department or agency;
- b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offense in connection with obtaining attempting to obtain, or performing a public (Federal, State, or Local) transaction or grant under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;

- c. are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or Local) with commission of any of the offenses detailed in section b. of this certification; and
- d. have not within a three (3) year period preceding this Contract had one or more public transactions (Federal, State, or Local) terminated for cause or default

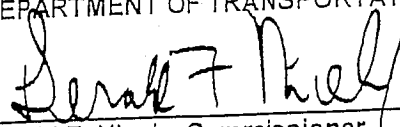
IN WITNESS WHEREOF:

BUSINESS RESOURCE GROUP, LLC:

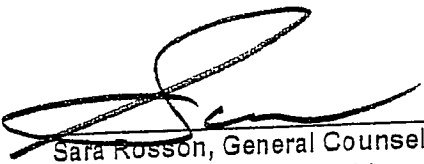

Carol G. Crawley, Managing Partner

Nov. 5, 2004
Date

DEPARTMENT OF TRANSPORTATION:


Gerald F. Nicely, Commissioner

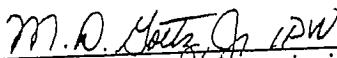
11/18/04
Date


Sara Rosson, General Counsel
Approved as to Form and Legality

Date

APPROVED:

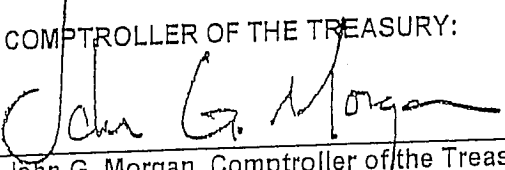
DEPARTMENT OF FINANCE AND ADMINISTRATION:


M. D. Goetz, Jr., Commissioner

NOV 30 2004

Date

COMPTROLLER OF THE TREASURY:


John G. Morgan, Comptroller of the Treasury

12/3/04
Date